



# Juridical Review on Empowerment of Micro, Small, and Medium Enterprises in Creating Powerful and Independent Business

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**Abstract.** The existence of Micro, Small, and Medium Enterprises (MSME) in Indonesia is a necessity and cannot be denied its role in the national economy. This is due to the large number of MSME entities with a fairly large contribution to Gross Domestic Product (GDP) and the ability to absorb 97 percent of the workforce. This condition encourages the government to protect and empower the existence of MSME. This study examines the juridical empowerment of MSME to become a strong and independent business. The research was conducted normatively with secondary data and analyzed qualitatively. The results of the study indicate that in the context of empowering MSME, the government has created a business climate by making various kinds of law and policy. The substances regulated in it cover all aspects needed by MSME, such as the aspect of funding, facilities and infrastructure, business information, partnerships, business licensing, business opportunities, trade promotions, and institutional support. These various aspects basically provide several convenience, facilities, and incentives to MSME in order to accelerate the achievement of strong and independent MSME. Juridically, all laws and policies issued by the government in the context of empowering MSME are quite good and complete, both in terms of the substances regulated and the institutions required by MSME.

**Keywords:** empowerment · juridical review · Micro, Small, and Medium Enterprises

## 1 Introduction

Micro, small and medium enterprises (MSMEs) are business activities that can increase employment opportunities, provide general economic services to communities, contribute to justice, increase people's incomes, promote economic growth and contribute to national stability. Moreover, MSMEs are one of the main pillars of the national economy and are given the most opportunities, support, protection and development as a form of solid partnership with national enterprise groups without overlooking the role of large corporations and the state. Must be Owned company.

These incidents are due to policies that did not provide adequate protection, business security, and features for MSME empowerment. Despite their contribution to the national economy, SMEs face various internal and external obstacles and constraints in manufacturing, processing, marketing, human resources, technical design, warehousing, and business environment. Various regulations and policies related to corporate reserves, financing and development have been introduced to improve opportunities, capacities and safeguards for MSMEs, but they still need to be improved.

Therefore, MSME need to be empowered by:

- growing a business climate that can support the development of MSME; and
- developing and building MSME.

Empowerment must be carried out synergistically and sustainably by governments, local governments, business communities and communities to strengthen the capacities and roles of MSME institutions in national economies. Empowerment is a joint effort by governments, local governments, businesses and communities to promote climate change growth and business development so that MSMEs can grow and develop into strong and independent businesses.

According to Article 1 of Decree No. 7 of 2021 on the Promotion, Protection and Strengthening of Cooperatives and Micro, Small and Medium Enterprises (hereinafter abbreviated as PP No. 7 of 2021), this means:

- A micro enterprise is a productive enterprise owned by an individual and/or a single business unit that meets the micro enterprise criteria set out in this law.
- A small business is a production owned and operated by an individual or business unit that is not owned, controlled, or part of a medium or large enterprise that operates independently and is not a subsidiary or affiliate of the enterprise serving the business. Economic enterprise. Standard. Small in the sense of this law.
- A medium-sized enterprise is an independent, productive economic enterprise operated by an individual or entity that is owned, controlled, or owned by a small or large company with a total net worth of direct or indirect annual turnover. or is not a subsidiary or branch of the company of which it is a part. Proceed within the meaning of this law.

The newest MSME criteria are regulated in Article 35 PP No. 7 of 2021. According to the article, MSME are classified according to their working capital or annual sales results. The working capital criteria are used for the establishment or registration of MSME activities established after the application of PP no. 7 of 2021. Capital criteria include:

- Micro Enterprises have a capital of up to IDR 1,000,000,000.00 (one billion rupiah), excluding land and buildings.
- Small businesses have business capital ranging from IDR 1,000,000,000.00 (one billion rupiah) to IDR 5,000,000,000.00 (five billion rupiah), excluding land and buildings for business.

- Medium Enterprises have business capital ranging from IDR 5,000,000,000.00 (five billion rupiahs) to IDR 10,000,000,000.00 (ten billion rupiahs), excluding land and buildings for business.

Meanwhile, in addition to the criteria for business capital, the criteria for annual sales results are used for the provision of convenience, protection, and empowerment of MSME, such as:

- Micro Enterprises have a maximum annual profit of IDR 2,000,000,000.00 (two billion rupiahs).
- Small Businesses have annual profits ranging from IDR 2,000,000,000.00 (two billion rupiahs) to IDR 15,000,000,000.00 (fifteen billion rupiahs)
- Medium Enterprises have annual profits ranging from IDR 15.000.000.000,00 (fifteen billion rupiahs) to a IDR 50.000.000.000,00 (fifty billion rupiahs).

The existence of MSME as a contributor to national GDP plays an important role in Indonesia's economic recovery. Through the National Economic Recovery Program, the government is committed to assisting MSME in surviving, developing, and growing in the face of the pandemic and transformation.

According to the Ministry of Cooperatives and Small and Medium Enterprises (Kemenkop UKM), the number of MSMEs will reach 64.2 million in March 2021, contributing 61.07% to GDP or IDR 8.573.89 trillion. MSMEs can absorb up to 97% of the total workforce and 60.42% of the total investment in Indonesia. According to Indonesia's Ministry of Cooperatives and SMEs, SMEs make up about 99.99% (62.9 million units) of all Indonesian businesses, while large companies make up only 0.01% or about 5,400 units. Considering this great potential and role, the Government, through the Coordinating Minister for Economic Affairs, has allocated a budget of IDR 95.87 trillion [1] to his MSME support cluster.

Based on the description in the background above, this research will examine juridically about the empowerment of Micro, Small and Medium Enterprises (MSME) in order to create a strong and independent business. The discussion of this problem is carried out using a type of normative research method based on secondary data and analyzed qualitatively to obtain answers to the problems studied.

## 2 Discussion

The presence of MSMEs as economic entities plays an important role and contributes significantly to the national economy. Therefore, it goes without saying that the existence of the company must be secured and strengthened in order for the company to grow and grow into an independent enterprise. Empowerment is a joint effort by governments, local governments, business communities and communities to promote climate growth and business development for MSMEs to grow and develop into strong and self-sufficient businesses.

The business environment is a synergistic environment for MSMEs through the enactment of various laws, regulations and policies in various aspects of economic life

in order to give them the greatest possible access, certainty, protection and opportunities for business support. Conditions pursued by national and local governments to empower The empowerment of MSMEs takes the form of business development as the business environment grows. Business development by governments, local governments, business communities and communities to empower MSMEs by providing facilities, guidance, support and enhanced support to expand and enhance their competence and competitiveness. It's an initiative.

The objectives of empowering Micro, Small and Medium Enterprises (MSME) are [2].

- achieve a balanced, developing, and just national economic structure;
- strengthen and develop MSME's ability to become strong and independent businesses; and
- expand MSME's role in regional development, job creation, income distribution, economic growth, and poverty alleviation.

Empowering MSMEs in a growing business environment is important as it provides legal protection and assurance of legal certainty for the legality of their business forms and activities. Governments and local governments facilitate the business environment by enacting various laws, regulations and policies covering the following topics: a. funding; b. facilities and infrastructure; c. business information; partnerships; e. business licenses; f. business opportunities. G. Trade Facilitation; and h. Institutional Support.

#### *A. Aspects of Funding or Financing*

The promotion or fundraising aspect is one of the crucial aspects in the context of MSME empowerment. Lending is the provision of funds by governments, local governments, businesses and the general public through banks, cooperatives and non-bank financial institutions to develop and strengthen the capital of MSMEs. Establishing laws, regulations, and policies regarding this aspect of funding is critical to achieving goals such as:

1. broaden funding sources and make it easier for MSME to access bank credit and non-bank financial institutions;
2. make it easier to obtain funding quickly, accurately, cheaply, and without discrimination in accordance with laws and regulations.

In this regard, governments and local authorities provide funding to micro-enterprises and SMEs. The central government and local governments, in accordance with Article 128 (1) of Decree No. 7 Year 2021 on the Promotion, Protection and Strengthening of Cooperatives and Micro, Small and Medium Enterprises (hereinafter abbreviated as PP No. 7, 2021). In order to enhance knowledge of MSMEs, in addition to providing finance, central and local governments improve financial literacy and help access to finance for micro and small enterprises. On the other hand, state-owned enterprises can provide financing to micro and small enterprises through means such as loans, guarantees and grants. Here, governments, local governments, and businesses can also offer grants,

apply for foreign aid, and seek out other non-essential funding sources for micro and small businesses. In addition, in connection with the enhancement of medium-sized enterprises in access or financing, government and local governments will implement financing and guarantees in the following ways:

- Increased working capital and investment financing can be facilitated and encouraged by expanding financing sources and patterns, access to capital markets, and other financing institutions; and
- develop credit guarantee institutions and improve the functions of export guarantee institutions.
- Guarantee refers to the provision of loan guarantees for MSME credit guarantee institutions in order to increase their ability to obtain loans and strengthen their capital.

In addition to the provision of loans and guarantees for small and medium enterprises by the Government and local governments, the activities of micro and small enterprises are eligible for program loans under section 80(1) and (2) PP No.7 of 2021. Can be used as collateral for Program loan guarantees can take the following forms: a. work orders; b. invoices; c. purchase orders (orders); intellectual property rights; Factoring; f. Chip/barcode to prove ownership of personal property. And/or g. employment contract.

Related to the tax problem that must be borne by MSME, the government issues a policy by providing facilities and incentives in the form of [3].

- Micro and small businesses will be given tax administration convenience/simplification in order to apply for central government financing facilities in accordance with the provisions of taxation legislation.
- Certain Micro and Small Businesses may be given income tax incentives in accordance with the provisions of laws and regulations in the field of income tax.
- Income tax incentives as referred to above are provided based on a single database as referred to in Article 58.
- Micro and Small Businesses are given incentives in the form of reduction, relief, or exemption from regional taxes and/or regional levies in accordance with statutory regulations.

In addition to the policies above, MSMEs are also given the freedom to choose to use the normal tax rate (progressive) or the final tax rate of 1%. Nowadays, there is a significant change for the final PPh rate, which is lower than the previous by 1% to only 0,5% of turnover for a certain period of time. Individual taxpayers can enjoy the final income tax rate of 0.5% for a period of seven years. As for corporate taxpayers, the validity period of imposition of final income tax rates is three years for those with Limited Liability Company (PT) status or four years for business entities in the form of Limited Partnership (CV), firms, or cooperatives. The government's objective in implementing the final income tax policy is basically to reduce the burden on taxpayers in fulfilling their obligations in the field of taxation. Through the final PPh, it is hoped that it can encourage and increase people's economic activities because the tax burden borne by MSMEs will be smaller.

### *B. Facilities and Infrastructures*

The following aspects of facilities and infrastructure are intended to empower MSMEs. Providing public infrastructure that can stimulate and develop the growth of micro and small businesses; B. Providing certain tariff relief measures for micro and small businesses; Discriminatory treatment under government and local government regulation is meant by “relief of certain infrastructure charges,” whether directly or indirectly through the granting of remedies.

The realization of the infrastructure aspect by the Government provides convenience, assistance, and facilitation for the implementation of integrated management of Micro and Small Enterprises (MSMEs). In the production process, especially those related to facilities and infrastructure, that is done by providing land and buildings to be used as locations for the production process; production machinery and equipment; and/or other supporting facilities.

### *C. Business Information*

Meanwhile, in the aspect of business information in relation to the empowerment of MSMEs, it is aimed at:

- create and promote the use of data banks and business information networks. The term “data bank and business information network” refers to various government or private-sector-owned business data centers and business information systems;
- procure and disseminate information on markets, sources of financing, commodities, guarantees, design and technology, and quality; and
- provide guarantees of transparency and equal access to all business information for all MSME actors.

Viewed from a business perspective, information systems will be able to help provide solutions to problems or challenges faced by the company and provide real economic value for the company. The importance of information systems in the world of business/business is caused by several reasons, including: pursuing advances in information technology; changes in economic conditions; increasingly fierce business competition; and the emergence of innovation in business.

### *D. Partnership*

Partnership is defined as cooperation in a direct or indirect business relationship involving MSME parties and large corporations based on the principles of mutual need, trust, empowerment and benefit. The objectives of this partnership are, inter alia, to: a. Promote mutually beneficial relationships in conducting business transactions among MSMEs; B. Prevent market domination and corporate concentration by specific individuals or groups that harm MSMEs;

When it comes to partnerships, governments, local governments, business communities and communities promote, support and inspire partnership activities that require trust, strength and mutual benefit. This is confirmed in Article 104(1) of PP No. 7 of

2021, which states that partnerships between SMEs and large companies will be conducted while respecting sound business ethics. It is The above principles of partnership include the principle of reciprocity: a. must; b. trust; c. And d is informative.

Partnership programs between MSMEs and partnerships between MSMEs and large companies cover skill transfer processes in manufacturing and processing, marketing, capital, human resources, and technology. According to Article 26 of Law No. 20 Year 2008, this partnership can be implemented as follows: a. b. nuclear-plasma contract; c. d. general trade franchises; e. distribution and representation; f. profit sharing, business cooperation, joint ventures, and outsourcing are examples of other types of partnerships.

Any type of partnership operated by an MSME must be documented in a partnership agreement to ensure legal protection and legal certainty. 3 The memorandum of association shall be in writing and shall set forth the business, rights and obligations of each party, the form of settlement, the duration of the dispute and settlement. In addition to the above, the partnership agreement must not contradict the MSME's basic principles of independence and must not create dependence of his MSME on large corporations.

Partnerships are a key aspect of our efforts to empower small businesses. In addition, large corporations are prohibited from owning and/or controlling micro, small and medium enterprises as business partners with which they carry out partnership relationships. Small businesses are also prohibited from owning and/or managing the micro and/or small businesses of their business partners. When implementing the partnership, both parties shall have equal rights and Indonesian law shall apply.

Furthermore, to run the implementation of the partnership well and no violations, it is necessary to have monitoring or supervision. The Business Competition Supervisory Commission monitors partnership implementation in accordance with applicable laws and regulations. If in the implementation of the partnership there is a violation, the administrative sanctions will be imposed. According to Article 39 paragraph (1) of Law No. 20 of 2008, Large Businesses that violate the provisions of Article 35 paragraph (1) will face administrative sanctions from the competent authority, including the revocation of business licenses and/or a fine of not more than IDR 10.000.000.000,00. Meanwhile, Medium Enterprises that violate the provisions of Article 35 paragraph (2) will face administrative sanctions from the competent authority, including the revocation of business licenses and/or a fine of not more than IDR 5.000.000.000,00.

To further encourage inter-company partnerships, the government has also issued a policy by providing various forms of incentives. Article 102 PP No. 7 of 2021 states that:

- In accordance with the provisions of laws and regulations, the Central Government and Regional Governments provide incentives and ease of doing business through partnerships between medium and large businesses and cooperatives, micro enterprises, and small businesses.
- Incentives are provided to Micro and Small Businesses in the form of:
  - a. local tax reduction or relief;
  - b. reduction or relief of regional levies;
  - c. capital assistance to Micro, Small Business, and/or Cooperatives;
  - d. assistance for research and development for MSME, and/or Cooperatives;

- e. vocational training facilities for Micro, Small Business, and/or Cooperatives; and/or
- f. interest subsidies on loan.

### *E. Permissions*

Efforts to empower MSME cannot be separated from licensing issues, both licensing related to business entities and company operations. Treatment for MSME in licensing issues is regulated in Law no. 11 of 2020 concerning Job Creation where it is determined that [4].

- In the context of facilitating Business Licensing, the Central Government and Regional Governments are obligated to provide guidance and registration for Micro and Small Enterprises based on the Central Government's norms, standards, procedures, and criteria.
- The aforementioned registration can be completed online or offline.
- The above-mentioned online registration receives a business registration number from the electronic Business Licensing system.
- The above-mentioned business registration number is a single license that covers all business activities.

According to Article 12 of Law No. 20 Year 2008, the purpose of a corporate license is to: a. Simplify business license procedures and types with an integrated service system from a single source; b. User fee waivers for micro businesses and fee facilitation for small businesses.

As a follow-up to the licensing issue, Article 2 of the Presidential Decree of the Republic of Indonesia No. 98 of 2014 on Licensing of Micro and Small Businesses (hereinafter abbreviated as Perpres No. 98 of 2014) states:

- Micro and Small Business Permits are intended to provide legal certainty and empowerment to micro and small business actors as they expand their operations.
- The goals of regulating Micro and Small Business Permits are to:
  - a. obtain business certainty and protection in a
  - b. predetermined location;
  - c. obtain assistance for business development;
  - d. obtain easy access to financing from banks and nonbanks; and
  - e. obtain convenience in empowerment from the government, local government, and/or other institutions.

With respect to costs, Article 3(4) of Presidential Decree No. 98 of 2014 granting micro and small business licenses to MSMEs exempts or waives fees, charges and/or other charges stipulated as a thing. The costs necessary to carry out the issuance and administration, promotion and monitoring of micro and small business permits are borne by the National Revenue and Expenditure Budget and/or the Regional Revenue and Expenditure Budget [5].

Business licensing for MSMEs is conducted through the Electronic Integrated Business Licensing System administered by the agency that administers Electronic Integrated

Business Licensing. A business license is a legal authorization that allows a business actor to incorporate and operate a business or activity.

To facilitate business licenses, central and local governments provide guidance and registration for micro and small businesses. Micro and small businesses that have recently started operations can directly apply for business registration numbers, standard certificates and/or permits through our electronically integrated business licensing system. The central government has already introduced a single license for micro and small businesses through an electronically integrated business licensing system. A single license includes a business license, Indonesian national standards and Halal product assurance certification.

#### *F. Business Opportunity*

In the context of empowering MSME, it will intersect with business opportunities' aspects. This aspect is intended, among others, to:

- Determine your business location designation. This includes providing market locations, shop spaces, industrial center locations, folk farming locations, folk mining locations, convenient street vendor locations, and other locations;
- Defining business fields reserved for micro, small and medium enterprises and business fields open to large enterprises on condition of cooperation with micro, small and medium enterprises;
- Protect certain strategic businesses for MSME; and
- Prioritize the procurement of goods and services, government and local government work.

In Law No. 11 of 2020 concerning Job Creation, there are two types of arrangements for ease of doing business, namely general arrangements (CHAPTER III) and special arrangements for MSMEs (CHAPTER V). Chapter V specifically regulates the Ease, Empowerment, and Protection of MSMEs as an affirmative action arrangement for MSMEs in investing. In that Law, among others, regulates: criteria for MSMEs, a single database, partnerships, and other convenience facilities. An important point in this arrangement is that the MSME criteria in detail become the authority of Government Regulations. This is to maintain flexibility of setting given the dynamic nature of the size of each indicator.

#### *G. Trade Promotion*

Trade promotion is a very important part in the context of empowering MSME. Aspects of trade promotion as referred to in the MSME Law are aimed at, among other things:

- increase the promotion of MSME products at home and abroad;
- provide incentives and procedures for providing incentives to MSME capable of providing independent funding for product promotion activities both at home and abroad.

The provisions governing trade promotion aspects have been stated in Article 60 of PP No. 7 of 2021 in conjunction with Article 53A Job Creation, namely:

- Ministries/institutions and local governments, state-owned enterprises, local enterprises and/or private enterprises shall reserve at least 30% (30%) of their total land area for business parks, shopping areas and/or promotion and development of micro and small businesses.
- The above public infrastructure includes: a. terminals; b. airports; c. ports; i.e. train stations; Rest stops and toll roads. f. Other public infrastructure as determined by the central and/or local governments under their respective authority. Cooperation agreements between operators and public infrastructure operators. A cooperation agreement should include at least the following: a. Identity of a Party; b. Rights and Obligations of a Party. c. penalties; and d. dispute resolution.

#### *H. Institutional Support*

Institutional support is an equally important factor to consider in fostering a business environment that empowers MSMEs. This aspect of institutional assistance aims to develop and strengthen the capabilities of incubators, business development service agencies, financial advisors to banking partners and other similar professional agencies as MSME development support agencies. More specifically, the importance of conducting incubations aims to:

- establishing new businesses;
- enhancing the quality of MSMEs with economic value and high competitiveness; and
- optimizing the use of educated human resources in driving the economy through the application of science and technology.

The implementation of this incubation is carried out by the Central Government, Regional Government, educational institutions, legal and non-legal entities, and/or the community. The incubator institution carries out the following activities: a. coaching, training, and assistance to prospective business actors; and/or b. development of innovative and productive startup entrepreneurs. In order to monitor and evaluate the implementation of incubation development, it is carried out periodically at least 1 (one) time in 1 (one) year or at any time if needed.

Related to institutional support to encourage SMEs, there is one program from the Ministry of Cooperatives and SMEs, namely the Integrated Business Service Center or often abbreviated as PLUT. This PLUT program has been running since 2014 with the issuance of Kemenkop Regulation (Permenkop) No. 9 of 2013. In general, PLUT was established to provide guidance and assistance to SMEs to be able to advance to class. In 2019, the central government redefined the purpose of establishing PLUT, namely to improve the institutional quality of Cooperatives and MSMEs.

PLUT itself functions to provide services as well as to facilitate the implementation of mentoring programs by accompanying consultants. These mentoring activities take different forms for each region. This depends on the planned activities of the PLUT

organizational structure and how prepared the local government is to support these activities. In carrying out the task of mentoring, PLUT at the district/city level has the topic of mentoring in the institutional field. In this field, SMEs can ask about the mechanism for establishing legal entities, such as firms and CVs or also registering individual businesses. Friends of SMEs can also discuss certification and other aspects of institutional strengthening.

### 3 Conclusion

Empowering micro, small and medium enterprises (MSMEs) by expanding the business environment is critical. The importance of expanding the business environment in empowering MSMEs is to provide legal protection and assurance of the legality of their business forms and operations. Governments and local governments promote a business-friendly environment by enacting various laws and policies that address the following issues: a. funding; b. infrastructure and facilities; c. business information; i.e. partnerships; e. business licenses; f. business opportunities. G. Trade Facilitation; and h. Institutional support. Essentially, these different aspects offer several possibilities, facilities and incentives to accelerate the achievement of strong and independent MSMEs. The initiative is actually a form of implementation of a legal mandate that obliges governments and local governments to create strong and independent MSMEs. From a legal point of view, the laws and guidelines issued by governments and local governments related to the strengthening of micro, small and medium enterprises are actually all very good and complete.

Meanwhile, if in reality it is not possible to achieve the conditions for MSME that are strong and independent as expected, this could be due to the fact that their implementation is not in line with the provisions of the legislation and/or is still constrained by various factors that influence and hinder the implementation of MSME empowerment.

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